

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Improving Public Safety Communications in)	WT Docket No. 02-55
the 800 MHz Band)	
)	
New 800 MHz Band Plan for U.S. – Mexico)	
Sharing Zone)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (“Sprint Nextel”) hereby files these comments in response to the Public Safety and Homeland Security Bureau’s (“Bureau”) *Fourth Further Notice of Proposed Rule Making* (“*FNPRM*”) proposing an 800 MHz band reconfiguration band plan and negotiation timetable for the U.S. – Mexico Border Areas.¹

I. Sprint Nextel Supports Adoption of the Commission’s 800 MHz Band Plan for the U.S. – Mexico Sharing Zone

Sprint Nextel supports adoption of the proposed 800 MHz band plan for the U.S. – Mexico Border Areas, both inside the 110 km “Sharing Zone” and those adjacent areas north of the Sharing Zone. The proposed 800 MHz band plan accomplishes the primary goal of 800 MHz band reconfiguration -- eventual separation of public safety and compatible non-cellular licensees from licensees that deploy cellularized technology in and adjacent to the 800 MHz band. Relocation of all incumbent public safety licensees from the current NPSPAC allocation of 821-824/866-869 MHz to the new NPSPAC band allocation at 806-809/851-854 MHz will virtually eliminate the potential for interference

¹ In the Matter of Improving Public Safety Communications in the 800 MHz Band; New 800 MHz Band Plan for U.S. – Mexico Sharing Zone, *Fourth Further Notice of Proposed Rulemaking*, DA 12-1343, ___ FCC Rcd ___ (PSHSB Rel. August 17, 2012).

for public safety licensees in the Border Areas. Segregating cellular-type operations in the 800 MHz ESMR band (818.5-824/863.5-869 MHz in the Sharing Zone and 817-824/862-869 MHz in the non-Sharing Zone) accomplishes this critical public safety objective.

To perform the relocation of public safety operations in the Border Areas, Sprint Nextel supports the Bureau's various proposals to facilitate band reconfiguration. In the Los Angeles, CA area Sprint Nextel supports the proposed slight deviation from the standard U.S. 800 MHz band plan through elimination of the Expansion Band (860 - 861 MHz) and the 800 MHz Guard Band (861 - 862 MHz).² This modification to the upper-portion of the non-cellular segment of the 800 MHz band in the non-Sharing Zone portion of Southern California is necessary to ensure that no U.S. incumbent licensee loses spectrum and to ensure that there is enough 800 MHz replacement spectrum to implement 800 MHz reconfiguration, given the serious spectrum congestion in Southern California and the resultant complexities of reconfiguration in this area. It is consistent with other situations where the Commission has modified the 800 MHz band plan due to border area spectrum limitations or other unusual circumstances.³ Elimination of the

² See *FNPRM* at ¶¶21-22.

³ See *Improving Public Safety Communications in the 800 MHz Band, 800 MHz Report and Order*, 19 FCC Rcd 14969 at ¶¶164-166 (2004) (The Commission found that the ESMR band segment in the southeastern United States could not accommodate both SouthernLINC and Sprint Nextel, therefore, the Commission expanded the ESMR band segment in the southeastern United States, eliminated the 800 MHz Guard Band and adopted Expansion Band); See *Improving Public Safety Communications in the 800 MHz Band, 800 MHz Memorandum Opinion and Order*, 20 FCC Rcd 16015, ¶¶46-49 (2005) (Commission declined to wholly eliminate Expansion Band across southeastern United States but reduced Expansion Band to 0.5 MHz in 70 mile radius of Atlanta, Georgia); See *800 MHz Second Report and Order*, 23 FCC Rcd 7605 ¶18 (2008) (When establishing channel plans for the Canada Border, the Bureau stated "[b]ecause of the

Expansion Band and Guard Band will not increase the risk of interference to non-ESMR band operations below 862 MHz because 800 MHz ESMR band operations are strictly required to protect non-cellular operations below 862 MHz and there are rigorous requirements in place to ensure interference protection post-band reconfiguration even without a Guard Band.⁴

In the non-Southern California Border Areas of Arizona, New Mexico, Texas – El Paso and Texas – San Antonio, Sprint Nextel does not oppose retention of the 800 MHz Expansion Band and 800 MHz Guard Band in the non-Sharing Zone.⁵ Sprint Nextel requests, however, that instead of the Expansion Band presumption that a public safety licensee will be relocated from the Expansion Band unless it makes a formal election to remain, Sprint Nextel proposes that a public safety licensee in the 860-861 MHz portion of the 800 MHz band in these Border Areas be required to make an affirmative election to be retuned; i.e., that there be no Expansion Band relocation presumption. Sprint Nextel believes that this change in the Expansion Band presumption will ensure adequate replacement spectrum for licensees required to be retuned and potentially reduce the number of public safety licensees required to be retuned with no loss of interference

limited amount of U.S. primary spectrum available in the Canadian border regions, we do not create an Expansion Band or Guard Band in Regions 1-6.” In declining to establish an Expansion Band or Guard Band, however, the Bureau noted that “licensees operating in the non-ESMR portion of the band . . . will be entitled to full interference protection.”); *See Improving Public Safety Communications in the 800 MHz Band, 800 MHz Third Report and Order and Third Further Notice of Proposed Rulemaking*, 25 FCC Rcd 4443 at ¶¶5-6 (PSHSB 2010) (PSHSB reduced size of Guard Band and increased size of Expansion Band in Puerto Rico).

⁴ See 47 C.F.R. §§ 90.72- 90.675.

⁵ See *FNPRM* at ¶24.

protection for an incumbent licensee who remains on its existing channel assignments. Because the Commission's rules require all ESMR licensees above 862 MHz to protect all 800 MHz licensees below 862 MHz regardless of their specific channel assignments, a public safety operator that remains on an 860 MHz channel is fully protected against harmful interference whether it relocates or remains. For this reason, many 860 MHz Expansion Band licensees in the non-border U.S. have elected to remain on their existing channel assignments instead of retuning their systems, thereby reducing the number of retunes and facilitating reconfiguration completion in a region. Under this proposed approach, a public safety licensee may still elect to retune, however, it would not be presumptively required.

Sprint Nextel also supports making 800 MHz band channel allocations consistent with the rest of the non-border United States through the elimination of the offset channel plan in the Sharing Zone.⁶ While this unique channel plan served its purpose for many years, it also added a layer of complexity to spectrum planning and spectrum use that can be eliminated through the new 800 MHz band allocation between the U.S. and Mexico.⁷

Sprint Nextel is concerned with the Bureau's proposal in the *FNPRM* at ¶16 and requests clarification. The Bureau proposed assigning the 85 channels immediately adjacent to the new NPSPAC allocation to public safety and then the remaining 45 channels to the General Category. At the same time, the Bureau's footnote 33 states that any of the 130 channels can be used for replacement frequencies regardless of channel

⁶ See *FNPRM* at ¶¶10-12.

⁷ See *FNPRM* at ¶¶13.

pool eligibility. Sprint Nextel seeks Bureau clarification that the 130 channels between 854-857.25 MHz are General Category channels and available as replacement frequencies to public safety, B/ILT or high site-SMR and that Sprint Nextel (and the TA in selecting channel assignments) is not required to make the first 85 channels exclusively or even majority public safety. Requiring public safety to predominantly be located immediately adjacent to the new NPSPAC band will be difficult to accomplish due to combiner spacing issues for both public safety and Business/Industrial and Land Transportation (“B/ILT”)/high-site SMRs that would need to be packed into 856-857.25 MHz.

Sprint Nextel is also concerned with the Bureau’s proposal in the *FNPRM* at ¶17. In the Mexican primary segment (857.25-863.5 MHz) Sprint Nextel does not object to a *portion* of this spectrum being potentially used by U.S. licensees on a secondary non-interference basis but such usage would likely be limited. U.S. licensee usage of the Mexican primary spectrum in the Sharing Zone would need to be coordinated with U.S. primary licensee usage north of the Sharing Zone and be designed to not cause interference with Mexican primary usage in Mexico. At a minimum, any potential U.S. secondary usage on the Mexican primary channel allocation would need to be in the bottom half of the Mexican primary allocation where the U.S. secondary usage could best be coordinated with the technically compatible high-site co-channel use in Mexico. For these same reasons, the 862–863.5 MHz portion of the Mexican primary segment must not be General Category or assignable to public safety or high-site SMR at all. It should only be allocated for potential 800 MHz ESMR band use due to the 800 MHz ESMR

band channel allocation north of the Sharing Zone. Sprint Nextel agrees that 863.5 – 869 MHz should be exclusively 800 MHz high-density ESMR in the Sharing Zone.

II. Sprint Nextel Supports the Commission’s Proposed Planning, Negotiation, Mediation and Implementation Timetable

The Bureau’s *FNPRM* proposed an expedited timeline for planning, negotiating, and mediating periods for licensees in the U.S. – Mexico border region.⁸ Sprint Nextel supports the Bureau’s proposals to facilitate rapid planning, negotiating with and retuning of existing incumbent licensees without further delay.⁹

The Bureau also requested comment on its proposed timetable for implementing retuning.¹⁰ Based on the Bureau’s view that planning, negotiation and mediation could be performed in approximately seven months, it notes that a 23-month retuning period would fall within the Bureau’s overall 30 month deadline. Sprint Nextel requests that the Bureau make clear that this extended retuning period must be the exception, not the standard timeline for retuning. Given that many licensees will be dependent upon other licensees to complete their retunes first in order to effectuate their own retunes, all licensees must be encouraged to complete their retunes expeditiously to avoid delays for other licensees required to retune.

III. Sprint Nextel Supports Continued Ability to Share Mexican Primary 800 MHz Spectrum With its Counterpart in Mexico

⁸ See *FNPRM* at ¶25-32.

⁹ Sprint Nextel notes that given the extensive volume of data on estimated and actual costs gathered by the TA, the TA Mediators, and the Bureau, disputed issues on costs, technical issues and comparability should be significantly minimized if incumbent licensees, vendors and consultants strictly follow the guidance the FCC and TA have already developed.

¹⁰ See *FNPRM* at ¶32.

The Bureau's *FNPRM* noted that Sprint Nextel currently operates on Mexico primary 800 MHz spectrum on a secondary non-interference basis in the U.S. – Mexico Sharing Zone pursuant to a Special Coordination Procedure (“SCP”).¹¹ To help overcome reduced spectrum availability in the Sharing Zone, Sprint Nextel entered into cooperative business agreements with its 800 MHz counterpart operator, NII Holdings, Inc. (“NII”), to provide each other additional spectrum capacity along the common U.S. – Mexico border for coordinated network operations, cross-border roaming and to provide enhanced wireless services for thousands of customers (public safety, business and consumers) in both countries. Adoption of the Bureau's proposed 800 MHz band plan must permit these cooperative arrangements to continue both during the 800 MHz band reconfiguration transition and post-rebanding.

During 800 MHz band reconfiguration, Sprint Nextel must make available its 800 MHz spectrum to provide replacement channels for 800 MHz incumbent licensees. Sprint Nextel must also maintain sufficient network capacity to provide service to its customers on its 800 MHz Network during this transition process. Being able to continue to access 800 MHz (Mexican primary) channels from NII pursuant to its spectrum sharing agreement with NII would help Sprint Nextel perform its rebanding obligation while maintaining service for its customers. Therefore, Sprint Nextel continues to require flexibility in coordinating spectrum usage with NII to maintain access to sufficient 800 MHz spectrum in the Sharing Zone during 800 MHz band reconfiguration.

¹¹ See *FNPRM* at ¶37.

After 800 MHz band reconfiguration is complete, and Sprint Nextel is retuned to the 863.5-869 MHz “Co-primary” spectrum allocation, Sprint Nextel intends to continue its cooperative spectrum sharing agreements with NII. Sprint Nextel desires to not only share 863.5 – 869 MHz spectrum with NII (assuming NII is the Mexican co-primary licensee), but Sprint Nextel and NII expect to be able to share a portion of NII’s 800 MHz primary spectrum below 863.5 MHz in the Sharing Zone. This Mexican primary spectrum below 863.5 MHz should not be made available to U.S. licensees on a secondary basis absent an agreement with the Mexican primary licensee.

The Bureau’s *FNPRM* requested comment on whether any conditions or limitations should be applied to Sprint Nextel’s use of 800 MHz spectrum in the Sharing Zone below 863.5 MHz. Sprint Nextel’s usage of 800 MHz spectrum north of the Sharing Zone between 862-869 MHz in the ESMR band will require the Bureau to maintain 862-863.5 MHz clear of non-compatible U.S. licensees in the Sharing Zone and this spectrum should be made available for Sprint Nextel ESMR use so long as Sprint Nextel complies with the Amended Protocol. Sprint Nextel’s use below 863.5 MHz should be subject to the Amended Protocol vis-à-vis Mexican operations, and subject to the Commission’s existing interference rules at Sections 90.672-90.675 of the Commission’s rules. Because these rules provide strict interference protection to non-cellular operations, no additional operational restrictions are required.

IV. Conclusion

Sprint Nextel supports the Commission's proposals to modify the 800 MHz band plan in and adjacent to the U.S. – Mexico Sharing Zone. The Commission's proposals, if adopted, will accomplish the main goal of 800 MHz band reconfiguration: separation of cellularized and non-cellularized operations to mitigate existing and prevent future CRMS – public safety interference with minimal disruption to existing 800 MHz licensees. Therefore, Sprint Nextel supports prompt adoption of the proposed band plan so that 800 MHz band reconfiguration can be completed expeditiously.

Respectfully submitted,

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